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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/083,040	02/26/2002	Mark Russell DeFord	T151	3125
23623	7590	08/23/2006	EXAMINER	
AMIN, TUROCY & CALVIN, LLP 1900 EAST 9TH STREET, NATIONAL CITY CENTER 24TH FLOOR, CLEVELAND, OH 44114			TRAN, PHUC H	
			ART UNIT	PAPER NUMBER
			2616	

DATE MAILED: 08/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/083,040

Applicant(s)

DEFORD, MARK RUSSELL

Examiner

PHUC H. TRAN

Art Unit

2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 May 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-17 is/are allowed.
- 6) ☒ Claim(s) 18-21, 23-28 and 30-32 is/are rejected.
- 7) ☒ Claim(s) 22, 29 and 33 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claim 30 is objected to because of the following informalities: claim 30 is missing in the listing of claim, there should be 1-33 not 1-29 and 31-34. Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 18-21, 23-28, and 30-32 are rejected under 35 U.S.C. 102(e) as being anticipated by Hamilton (U.S. Patent No. 6496499 B1).

- With respect to claims 18, 23, and 31-32, Hamilton teaches a computer program embodied on a computer readable medium for transmitting data packets over a radio device in a cellular communication system (e.g. Fig. 1 and Fig. 5) comprising:

a data packet transmission queue for storing data packets to be transmitted over the radio device (e.g. memory 526 in Fig. 5); and

a transmission ordering module adapted to transmit data packets one location at a time in the data packet transmission queue until a transmission error occurs, wherein the transmission ordering module advances to a location in the data packet transmission queue having a data packet with a different destination address than the data packet in which the transmission error has occurred (see col. 18, lines 20-45).

- With respect to claims 19-20, Hamilton also discloses wherein the computer program runs on an operating system of a computer system (Fig. 1).

- With respect to claim 21, Hamilton teaches wherein transmission ordering module continues transmitting data packets one location at a time in the data packet transmission queue after advancing to the location in the data packet transmission queue with a different destination address (see col. 3, lines 23-67 and col. 4, lines 1-8).

- With respect to claims 24, and 26, Hamilton also teaches wherein the transmission ordering component resides in a firmware/application program on radio device (col. 7, lines 10-13).

- With respect to claims 25 and 27, Hamilton discloses wherein a radio driver resides on the computer operating system and the transmission ordering component resides in the radio driver (see Fig. 5).

- With respect to claim 28, Hamilton teaches wherein transmission ordering component continues transmitting data packets one location at a time in the queue after advancing to the

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location in the queue with different a destination address (see col. 3, lines 23-67 and col. 4, lines 1-8).

- With respect to claim 30, Hamilton discloses wherein the radio system is an access point system (302 in Fig. 3).

Response to Amendment

4. Applicant's arguments with respect to claims 18-21, 23-28, and 30-32 have been considered but are moot in view of the new ground(s) of rejection.

5. The following claims 21, and 32 were indicated allowable by examiner in previous office action; however, these claims are unpatentable in view of new arts. Therefore, these indicated claims are withdrawn.

Allowable Subject Matter

6. Claims 1-17 is allowed.

7. Claims 22, 29, & 33 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to PHUC H. TRAN whose telephone number is (571) 272-3172. The examiner can normally be reached on M-F (8-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, CHI PHAM can be reached on (571) 272-3179. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Phuc Tran
Assistant Examiner
Art Unit 2664

P.t
8/14/06

A handwritten signature in black ink, appearing to read 'W. CHIN', with a long horizontal line extending to the right.

WELLINGTON CHIN
PRIMARY PATENT EXAMINER